

REMARKS

This is in response to the Office Action dated August 31, 2009.

I. SUMMARY OF OFFICE ACTION

Claim 53 was objected to for various informalities. Claims 53-55 were rejected under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. Claims 53-55 were also rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner proposed amendments to Claim 53 which was indicated as being allowable provided that there by a sufficient showing of public availability as mentioned in the Office Action.

II. APPLICANT'S RESPONSE

Applicant has amended Claim 53 as suggested by the Examiner and shown on pages 7 and 8 of the current outstanding Office Action. By the amendments to Claim 53, Applicant respectfully submits that the objection to Claim 53 and the rejection of Claim 53 under 35 U.S.C. §112, second paragraph has been overcome.

Applicant also submits concurrently herewith a Declaration indicating that the specific biological materials have been deposited under the Budapest Treaty and that the biological materials will be irrevocably and without restriction or condition released to the public upon the issuance of a patent. (see Exhibit A). As such, the rejection of Claim 53 under 35 U.S.C. §112, first paragraph has been overcome by way of the Declaration and the deposit of the biological material.

For the foregoing reasons, Applicant respectfully submits that Claim 53 is now in condition for allowance.

III. CONCLUSION

For the foregoing reasons, Applicant respectfully submits that all pending claims are believed to be in condition for allowance. An early notice of allowance is therefore

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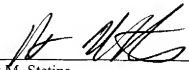
respectfully requested. Should the Examiner have any suggestions for expediting allowance of the above identified application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 12/11/09 By: _____

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